

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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PLANCK LLC, d/b/a, PATCH MEDIA,

Case No. 20-CV-10959 (LGS)

*Plaintiff,*

– against –

~~PROPOSED~~ JUDGMENT  
PURSUANT TO FED.R.CIV.P. 68

PARTICLE MEDIA, INC., d/b/a, NEWS BREAK,  
JEFF ZHENG, and VINCENT WU,

*Defendants.*

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WHEREAS, Plaintiff Planck LLC, d/b/a, Patch Media (“Plaintiff”) commenced this action by filing a Summons and Complaint on or about December 28, 2020; and

WHEREAS, Plaintiff filed a First Amended Complaint (“FAC”) on or about March 17, 2021, which asserted (a) claims for damages and attorneys’ fees under 18 U.S.C. § 1964 against Defendants Vincent Wu and Jeff Zheng for having violated 18 U.S.C. §§ 1962(c) and (d), (b) a claim for damages, attorneys’ fees, and a permanent injunction against all Defendants for copyright infringement in violation of 17 U.S.C. § 101, *et seq.*, (c) a claim for damages, attorneys’ fees, and a permanent injunction against all Defendants for violating 17 U.S.C. § 1202, (d) a claim for damages and injunctive relief against Defendant Particle Media, Inc., d/b/a, News Break (“News Break”) for breach of a Non-Disclosure Agreement entered into with Plaintiff, and (e) a claim for damages and/or rescission against News Break for having fraudulently induced Plaintiff to enter into a Terms of Services Agreement; and

WHEREAS, in an Opinion and Order entered on November 3, 2021 (Doc. No. 55), the Court denied Defendants’ motion to transfer venue or alternatively to dismiss the FAC, except the Court dismissed the FAC as against Jeff Zheng for lack of personal jurisdiction; and

WHEREAS, on October 24, 2022, Defendants News Break and Vincent Wu made Plaintiff an Offer of Judgment pursuant to Fed. R. Civ. P. 68, which was made for the purposes of Rule 68 only and by its terms was not an admission of liability; and

WHEREAS, on October 28, 2022, Plaintiff accepted Defendants News Break and Vincent Wu's Rule 68 Offer of Judgment:

THEREFORE,

IT IS HEREBY ADJUDGED AND DECREED THAT, pursuant to Rule 68 of the Federal Rules of Civil Procedure, Plaintiff takes judgment against Defendants News Break and Vincent Wu, jointly and severally, in the amount of One Million Seven Hundred and Fifty Thousand Dollars (\$1,750,000), to be paid within thirty (30) days of entry of judgment, with Plaintiff further entitled to recover costs and reasonable attorneys' fees to which it is authorized by law to receive, to be separately determined by the Court in the future. Defendants may challenge the reasonableness of any costs or attorneys' fees requested by Plaintiff; and


IT IS FURTHER HEREBY ADJUDGED AND DECREED THAT, pursuant to Rule 68 of the Federal Rules of Civil Procedure, Defendants News Break and Vincent Wu, and their employees, agents, officers, directors, attorneys, successors, affiliates, subsidiaries, and assigns are hereby permanently enjoined from acquiring, obtaining, copying, displaying, publishing, intentionally removing or altering any copyright management information from, or providing or distributing false copyright management information for, any content appearing on Patch's website or mobile application in which Patch holds a copyright; and

IT IS FURTHER HEREBY ADJUDGED AND DECREED THAT neither Defendants' Rule 68 Offer of Judgment, nor this judgment and injunction, shall be construed as an admission of liability as alleged in the FAC; and neither Defendants' Rule 68 offer of Judgment, nor this

judgment and injunction, shall be admissible in any other proceeding except for a proceeding to enforce the relief granted herein.

Dated: New York, New York  
November 1, 2022

Enter.



**LORNA G. SCHOFIELD**  
**UNITED STATES DISTRICT JUDGE**